



Journal of the House

State of Indiana

114th General Assembly

Second Regular Session

Twenty-third Meeting Day

Tuesday Morning

February 28, 2006

The House convened at 10:00 a.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representatives Sheila A. Klinker and Kathy Kreag Richardson.

The Speaker ordered the roll of the House to be called:

Aguilera	Koch
Austin	Kromkowski
Avery	Kuzman
Ayres	L. Lawson
Bardon	Lehe
Bauer	Leonard
Behning	J. Lutz
Bell	Mahern
Bischoff	Mays
Borders	McClain
Borror	Messer
C. Bottorff	Micon
Bright	Moses ☐
C. Brown	Murphy
T. Brown	Neese
Buck	Noe
Budak	Orentlicher
Buell	Oxley
Burton	Pelath
Cheney	Pflum
Cherry	Pierce
Cochran	Pond
Crawford	Porter
Crooks	Reske
Crouch	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson ☐	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell ☐	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Tyler
Gutwein	Ulmer
E. Harris	VanHaften
T. Harris	Walorski
Heim	Welch
Hinkle	Whetstone
Hoffman	Wolkins ☐
Hoy	Woodruff
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 283: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 59

Representative V. Smith introduced House Concurrent Resolution 59:

A CONCURRENT RESOLUTION congratulating Benjamin Banneker Elementary School, Gary, Indiana, on its selection as a Four Star School Award winner.

Whereas, The Four Star School Award is presented by Dr. Suellen Reed, Superintendent of Public Instruction for the state of Indiana, to schools in recognition of attaining scores in the top twenty-five percent of all Indiana schools in language arts, mathematics, total Indiana Statewide Testing for Educational Progress (ISTEP) battery and attendance during a particular school year;

Whereas, Benjamin Banneker Elementary School fulfilled these requirements for the 16th consecutive year;

Whereas, Despite a school size of about 500 students and class sizes that can total as many as 28 pupils, the ISTEP scores at Banneker Elementary have greatly exceeded state averages for the past six years;

Whereas, The students and teachers of Benjamin Banneker Elementary School have received this honor every year because of their hard work, dedication to improvement, and a strong desire to learn;

Whereas, Students have attributed their school's success to the efforts of the principal, teachers, staff, students, and parents working together in a unified effort to maintain the high level of achievement at their school;

Whereas, Principal Sarah Givens credits the success of Benjamin Banneker Elementary School to "good leadership skills, smart students, and a great staff"; and

Whereas, Schools such as Benjamin Banneker Elementary School make a strong statement about the quality of Indiana teachers and the high scholastic standards that exist in Hoosier schools: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana House of Representatives congratulates the students and teachers of Benjamin Banneker Elementary School on its 16th Four Star School Award and on the effort put forth by the students, teachers, and parents in obtaining this award and urges them to continue to strive for excellence in education throughout their lives.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Sarah Givens, principal of Benjamin Banneker Elementary School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators S. Smith and Rogers.

House Concurrent Resolution 60

Representatives Ayres, Cheney, and C. Brown introduced House Concurrent Resolution 60:

A CONCURRENT RESOLUTION to honor and congratulate the Chesterton High School State Debate Team for winning the 2006 State Debate Championship.

Whereas, The Chesterton High School Debate Team won the state debate championship for the ninth consecutive time and the seventeenth time overall;

Whereas, The Chesterton High School Debate Team scored 87 points, nearly doubling the score of the second place school;

Whereas, The Chesterton High School Debate Team had three of the four individual state champions—Rachel Wyatt in Congressional Debate, Kate Weber and Beau Rajsic in Public Forum Debate, and Sam Lahti and Tess Mullin in Policy Debate;

Whereas, Other members of the Chesterton High School Debate Team qualified for the advanced elimination rounds: Heather Stavropoulos was elected Speaker of the House; Amanda Kessinger placed seventh in Congressional Debate; Amy Zehner and Andrew Keithley competed in the final round of Congressional Debate; Luci Doler and Sarah Morlock placed second in Policy Debate; Ray Raffin and Phil Braunlich made the quarter finals in Policy Debate; Conor O'Brien and Tyler Demar made the octa finals in Policy Debate; Matt DeLeon and Alex Sisto placed second in Public Form Debate; and Ashley Hanson and Cassie Recker made the quarter finals in Public Forum Debate;

Whereas, Melissa Frye and Sarah Christofersen competed in Public Forum Debate, and Stephanie Leopold, Brandon Patterson, Andrew Thoesen, and Nathan Pavlovic competed in Lincoln-Douglas Debate;

Whereas, Coaches James Cavallo, Scott Woodhouse, and Chris Lowery should be commended for their contributions of time and effort in guiding these champions to victory;

Whereas, These young men and women are to be commended for their dedication and hard work and congratulated for their outstanding accomplishments in the field of debating: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana House of Representatives honors and congratulates the Chesterton High School State Debate Team for winning the 2006 State Debate Championship.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to the members and coaches of the Chesterton High School Debate Team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Tallian and Heinold.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 5

Representative Ulmer called down Engrossed Senate Bill 5 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION (Amendment 5–2)

Mr. Speaker: I move that Engrossed Senate Bill 5 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 3, line 22, delete "June 30, 2006." and insert "**the effective date of this act.**".

Page 3, after line 22, begin a new paragraph and insert: "**SECTION 4. An emergency is declared for this act.**".

(Reference is to ESB 5 as reprinted February 24, 2006.)

ULMER

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 5, begs leave to report that said bill has been amended as directed.

ULMER

Report adopted.

The question then was, Shall the bill pass?

Roll Call 284: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 6

Representative Ulmer called down Engrossed Senate Bill 6 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION (Amendment 6–4)

Mr. Speaker: I move that Engrossed Senate Bill 6 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 11, between lines 36 and 37, begin a new paragraph and insert:

"(f) For purposes of subsection (c), evidence that a person is a child batterer under subsection (b) may include expert testimony pursuant to the Indiana Rules of Evidence."

(Reference is to ESB 6 as reprinted February 24, 2006.)

ULMER

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 6, begs leave to report that said bill has been amended as directed.

ULMER

Report adopted.

The question then was, Shall the bill pass?

Roll Call 285: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Crouch was excused.

Engrossed Senate Bill 12

Representative Foley called down Engrossed Senate Bill 12 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 286: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 33

Representative Koch called down Engrossed Senate Bill 33 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 287: yeas 94, nays 0. The bill was declared passed. The

question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 36

Representative Noe called down Engrossed Senate Bill 36 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 288: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 39

Representative Thomas called down Engrossed Senate Bill 39 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 289: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representatives Bauer and Stilwell were excused.

Engrossed Senate Bill 47

Representative McClain called down Engrossed Senate Bill 47 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 290: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Frizzell, who had been excused, was present.

Engrossed Senate Bill 54

Representative Woodruff called down Engrossed Senate Bill 54 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 291: yeas 79, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Moses, who had been excused, was present.

Engrossed Senate Bill 56

Representative Buell called down Engrossed Senate Bill 56 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 292: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed

to inform the Senate of the passage of the bill.

Engrossed Senate Bill 73

Representative Davis called down Engrossed Senate Bill 73 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 293: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 81

Representative Stutzman called down Engrossed Senate Bill 81 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 294: yeas 88, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representatives Crouch and Stilwell, who had been excused, were present.

Engrossed Senate Bill 83

Representative Torr called down Engrossed Senate Bill 83 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 295: yeas 83, nays 11. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 94

Representative Dodge called down Engrossed Senate Bill 94 for third reading:

A BILL FOR AN ACT concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 296: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 111

Representative T. Brown called down Engrossed Senate Bill 111 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? On the motion of Representative Grubb the previous question was called.

Roll Call 297: yeas 72, nays 24. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:30 p.m. with the Speaker in the Chair.

Representatives Bauer and Dickinson, who had been excused, were present. Representative Heim was excused for the rest of the day.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 77 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Heinold, Chair; and Broden

Advisors: Drozda and Howard

MARY C. MENDEL

Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 106 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: M. Young, Chair; and Broden

Advisors: Miller and Craycraft

MARY C. MENDEL

Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 258 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Kenley, Chair; and Hume

MARY C. MENDEL

Principal Secretary of the Senate

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 353

Representative Gutwein called down Engrossed Senate Bill 353 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 353-3)

Mr. Speaker: I move that Engrossed Senate Bill 353 be amended to read as follows:

Page 1, delete lines 1 through 7, begin a new paragraph and insert: "SECTION 1. IC 5-28-6-3, AS ADDED BY P.L.191-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The general assembly declares that the opportunity for the participation of underutilized small businesses, especially women and minority business enterprises, in the biodiesel and ethanol production industries is essential if social and economic parity is to be obtained by women and minority business persons and if the economy of Indiana is to be stimulated as contemplated by this section, IC 6-3.1-27, and IC 6-3.1-28. A recipient of a credit under this chapter is encouraged to purchase goods and services from underutilized small businesses, especially women and minority business enterprises.

(b) The definitions in IC 6-3.1-27 and IC 6-3.1-28 apply throughout this section. A term used in this section that is defined in both IC 6-3.1-27 and IC 6-3.1-28 refers to the term as defined in:

(1) IC 6-3.1-27 whenever this section applies to the certification of a person for a credit under IC 6-3.1-27; and

(2) IC 6-3.1-28 whenever this section applies to the certification of a person for a credit under IC 6-3.1-28.

In addition, as used in this section, "person" refers to a taxpayer or a

pass through entity.

(c) As used in this section, "minority" means a member of a minority group (as defined in IC 4-13-16.5-1).

(d) As used in this section, "minority business enterprise" has the meaning set forth in IC 4-13-16.5-1.

(e) As used in this section, "women's business enterprise" has the meaning set forth in IC 4-13-16.5-1.3.

(f) A person that:

(1) begins construction of a facility or an expansion of a facility for the production of biodiesel, blended biodiesel, or ethanol in Indiana after February 28, 2005; and

(2) wishes to claim a tax credit with respect to that facility or the expansion of a facility under any combination of IC 6-3.1-27-8, IC 6-3.1-27-9, or IC 6-3.1-28-7;

must apply to the corporation for a determination of the person's eligibility for the tax credit.

(g) Subject to this section, the corporation shall issue to each qualifying applicant a certification that:

(1) certifies the person as eligible for the tax credits for which the person applied;

(2) identifies the facilities covered by the certification; and

(3) allocates to the person the lesser of:

~~(A) the maximum allowable a credit for which the person is eligible under IC 6-3.1-27-8, IC 6-3.1-27-9, or IC 6-3.1-28-11. or~~

~~(B) a credit equal to the level of production demonstrated as economically viable under the business plan submitted to the corporation by the person;~~

(h) To qualify for certification under subsection (g), a person must do the following:

(1) Submit an application for the credit on the forms and in the manner prescribed by the corporation for the credit that is the subject of the application.

(2) Demonstrate through a business plan and other information presented to the corporation that the level of production proposed by the person is feasible and economically viable. In making a determination under this subdivision, the corporation shall consider:

(A) whether the person is sufficiently capitalized to complete the project;

(B) the person's credit rating;

(C) whether the person has sufficient technical expertise to build and operate a facility; and

(D) other relevant financial information as determined by the corporation.

(i) The corporation shall record the time of filing of each application submitted under this section. The corporation shall grant certifications under this section to qualifying applicants in the chronological order in which the applications for the same type of credit are filed until the maximum allowable credit for that type of credit is fully allocated.

(j) The corporation may terminate a certification or reduce an allocation of a credit granted under this section only if the corporation determines, after a hearing, that the person granted the certification or allocation has failed to:

(1) substantially comply with the business plan that is the basis for the certification or allocation; or

(2) submit the information needed by the corporation to determine whether the person has substantially complied with the business plan that is the basis of the certification or allocation.

If an allocation of a credit is terminated or reduced, the unused credit becomes available for allocation to other qualifying applicants in the chronological order in which the applications for the same type of credit are filed until the maximum allowable credit for that type of credit is fully allocated. The corporation may approve an amendment to a business plan or a transfer of a certificate of eligibility in conformity with the terms and conditions specified by the corporation in rules adopted by the corporation under IC 4-22-2.

(k) The corporation shall give the department of state revenue written notice of each action taken under this section.

SECTION 2. IC 6-2.5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~For purposes of (a)~~

The definitions in this section apply throughout this chapter:

(b) "Kerosene" has the same meaning as the definition contained in IC 16-44-2-2.

(c) "Gasoline" has the same meaning as the definition contained in IC 6-6-1.1-103.

(d) "Special fuel" has the same meaning as the definition contained in IC 6-6-2.5-22.

(e) "E85" has the meaning set forth in IC 6-6-1.1-103.

(f) "Unit" means the unit of measure, such as a gallon or a liter, by which gasoline or special fuel is sold.

(g) "Metered pump" means a stationary pump which is capable of metering the amount of gasoline or special fuel dispensed from it and which is capable of simultaneously calculating and displaying the price of the gasoline or special fuel dispensed.

(h) "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

(i) "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.

(j) "Federal gasoline tax" means the excise tax imposed under Section 4081 of the Internal Revenue Code.

(k) "Federal special fuel tax" means the excise tax imposed under Section 4041 of the Internal Revenue Code.

(l) "Price per unit before the addition of state and federal taxes" means an amount which equals the remainder of:

(i) the total price per unit; minus

(ii) the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the total price per unit.

(m) "Total price per unit" means the price per unit at which gasoline or special fuel is actually sold, including the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

(n) "Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

(o) "Prepayment rate" means a rate per gallon of gasoline, rounded to the nearest one-tenth of one cent (\$0.001), determined by the department by determining the product of:

(1) the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax; multiplied by

(2) the state gross retail tax rate; multiplied by

(3) ninety percent (90%).

(p) "Purchase or shipment" means a sale or delivery of gasoline, but does not include:

(1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or

(2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

(q) "Qualified distributor" means a distributor who:

(1) is a licensed distributor under IC 6-6-1.1; and

(2) holds an unrevoked permit issued under section 7 of this chapter.

(r) "Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

(s) "Terminal operator" means a person that:

(1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or

(2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

SECTION 3. IC 6-2.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered

by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals five and sixty-six hundredths percent (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which he has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) ~~an~~ **the amount equal to: determined under STEP THREE of the following formula:**

STEP ONE: Determine:

~~(1)~~ **(A)** the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

~~(2)~~ **(B)** the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2008, determine the product of:

(A) ten cents (\$0.10); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed two million dollars (\$2,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed two million dollars (\$2,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice."

Page 2, reset in roman lines 20 through 25.

Page 12, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 21. IC 15-9-2-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 4. The department shall work with automobile manufacturers to improve awareness and labeling of E85 base fuel and shall work with the appropriate companies to include E85 base fuel stations in updates of global positioning navigation software."

Renumber all SECTIONS consecutively.
(Reference is to ESB 353 as printed February 24, 2006.)
GUTWEIN

Motion prevailed.

HOUSE MOTION
(Amendment 353-4)

Mr. Speaker: I move that Engrossed Senate Bill 353 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alternative fuel use and production.

Page 13, between lines 3 and 4, begin a new paragraph and insert:
"SECTION 22. [EFFECTIVE UPON PASSAGE] (a) The environmental quality service council established under IC 13-13-7 shall:

- (1) study the decline of the world oil supply;
- (2) recommend a comprehensive plan to accelerate the transition to renewable fuels and a sustainable clean energy economy; and
- (3) include its findings and recommendations under this SECTION in the council's 2006 final report to the legislative council.

(b) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.
(Reference is to ESB 353 as printed February 24, 2006.)

PIERCE

The Speaker ordered a division of the House and appointed Representatives Friend and Stilwell to count the yeas and nays. Yeas 47, nays 49. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 349

Representative Burton called down Engrossed Senate Bill 349 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 349-6)

Mr. Speaker: I move that Engrossed Bill 349 be amended to read as follows:

Page 3, line 26, delete "IC 27-7-3.5-15)" and insert "IC 27-7-3.5-16)".

Page 3, line 27, delete "IC 27-7-3.5-18)." and insert "IC 27-7-3.5-19)".

Page 4, line 30, after "7." insert "As used in this chapter, "closing protection letter" means an indemnification of or undertaking to a party to a real estate transaction by a principal, such as a title insurance company, setting forth in writing the extent to which the principal is responsible for intentional or unintentional misconduct or errors of the principal's agent in closing the real estate transaction.

Sec. 8."

Page 4, line 34, delete "8." and insert "9."

Page 4, line 36, delete "9." and insert "10."

Page 4, line 41, delete "10." and insert "11."

Page 5, line 5, delete "11." and insert "12."

Page 5, line 9, delete "12." and insert "13."

Page 5, line 12, delete "13." and insert "14."

Page 5, line 23, delete "14." and insert "15."

Page 5, between lines 29 and 30, begin a new line block indented and insert:

"(4) Issuance of closing protection letters."

Page 5, line 30, delete "15." and insert "16."

Page 6, line 1, delete "16." and insert "17."

Page 6, line 6, delete "17." and insert "18."

Page 6, line 17, delete "18." and insert "19."

Page 6, between lines 33 and 34, begin a new line blocked left and insert:

"The term includes a title agency."

Page 6, line 34, delete "19." and insert "20."

Page 7, line 24, delete "20." and insert "21."

Page 7, line 36, delete "21." and insert "22."

Page 7, line 42, delete "22." and insert "23."

Page 8, line 8, delete "23." and insert "24."

Page 8, line 14, delete "24." and insert "25."

Page 8, line 18, delete "25." and insert "26."

Page 9, line 10, after "obtained" insert "an".

Page 9, line 11, after "insurance" insert "policy:

- (A) that provides coverage for an opinion of title;
- (B) from an insurer that is acceptable to the title insurer; and
- (C)".

Page 9, line 13, delete "with a deductible not greater" and insert ".".

Page 9, delete line 14.

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"(h) To obtain an initial license under this section, a title agency shall comply with the requirements of section 27(a) of this chapter.

Sec. 27. (a) To obtain an initial license under this section, a title agency shall:

- (1) have deposited with the department securities of the type described in IC 27-1-13-3(b) and having at all times a market value of not less than ten thousand dollars (\$10,000); or
- (2) post a surety bond of not less than ten thousand dollars (\$10,000) payable to the department;

to secure the title agency's performance of the title agency's duties and responsibilities under the contract described in section 30 of this chapter and entered into between the title agency and each title insurer for which the title agency is appointed. If a surety bond is generally unavailable, the department may adopt rules under IC 4-22-2 to establish alternative methods by which a title agency may comply with this subsection.

(b) The deposit made or bond posted under subsection (a) is for the benefit of a person insured under a title insurance policy and damaged by the title agency's violation of this chapter or of a contractual duty or responsibility described in subsection (a).

(c) A title insurer shall not, directly or indirectly on behalf of a title agency, provide a deposit or bond required under subsection (a).

(d) A title agency may:

- (1) exchange or substitute securities:
 - (A) described in IC 27-1-13-3(b); and
 - (B) of like quality and value;

for securities on deposit;

- (2) receive interest and other income accruing on securities deposited; and

(3) at reasonable times, inspect a deposit of securities made; under subsection (a)(1).

(e) If a properly documented claim is timely filed with the department by a person described in subsection (b), the department may remit to the person in payment of the claim an appropriate amount of:

- (1) a deposit made under subsection (a); or
- (2) proceeds that are received from the surety.

(f) A deposit or bond described in subsection (a) must remain unimpaired while the title agency continues in business in Indiana and for one (1) year after termination of all title agency appointments held by the title agency. If there are no claims outstanding against the deposit or bond one (1) year after termination of the appointments, the department shall return the deposit or bond and any accrued interest to the title agency."

Page 9, line 23, delete "26." and insert "28."

Page 9, line 24, delete "25" and insert "26".

Page 9, line 27, delete "Subject to approval" and insert "A continuing education course must be approved".

Page 9, line 27, delete ", a continuing" and insert ".".

Page 9, delete lines 28 through 42.

Page 10, line 5, delete "do the following:".

Page 10, delete lines 6 through 8.

Page 10, line 9, delete "(2) Grant" and insert "grant".

Page 10, run in lines 5 through 9.

Page 10, line 14, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 10, line 14, after ";" insert "or".

Page 10, line 15, delete "(B)", begin a new line block indented and insert:

"(2)".

Page 10, line 16, delete "; or" and insert ".".

Page 10, delete line 17.

Page 10, line 22, delete "27." and insert "29."

Page 10, line 22, delete "25(f)" and insert "26(f)".

Page 11, line 3, after "(c)" insert **"The commissioner may adopt rules under IC 4-22-2 to specify information that must be provided to evidence sufficiency of a title insurance agent's net worth as described in subsection (a)."**

(d) Financial information provided to evidence sufficiency of a title insurance agent's net worth under this section is confidential.

(e)".

Page 11, line 7, delete "28." and insert "30."

Page 13, line 34, delete "25" and insert "26".

Page 13, between lines 34 and 35, begin a new paragraph and insert:

"(n) A:

(1) title insurer; or

(2) title insurance agent on behalf of a title insurer;

shall issue a title insurance policy not later than sixty (60) days after all conditions or requirements specified in the title insurance report have been satisfied. However, if a title insurance policy cannot be issued within the period set forth in this subsection due to an act of God or war, the policy must be issued within a reasonable period determined by the department."

Page 13, line 35, delete "29." and insert "31."

Page 14, between lines 16 and 17, begin a new paragraph and insert:

"(c) A title insurer or title insurance agent shall, at the time the title insurance report is prepared, provide written notice to all parties that receive the title insurance report that a closing protection letter may be purchased.

(d) The department shall adopt rules under IC 4-22-2 to specify the content of each notice required under this section."

Page 14, line 17, delete "30." and insert "32."

Page 14, line 27, delete "31." and insert "33."

Page 14, line 41, delete "," and insert **"and the title insurance agent or title agency is convicted of an offense under IC 35-43-9-7,"**.

Page 15, line 1, after "agency" insert ".".

Page 15, delete line 2.

Page 15, delete lines 8 through 16, begin a new line blocked left and insert:

"However, a title insurer's liability under this subsection is limited to the amount payable under a title insurance policy issued or committed, or a closing protection letter issued, in connection with the real estate closing or escrow in relation to which the defalcation, conversion, or misappropriation is committed, plus reasonable attorney's fees."

Page 15, line 26, delete "32." and insert "34."

Page 16, line 6, delete "33." and insert "35."

Page 16, line 38, delete "34." and insert "36."

Page 16, line 40, delete "35." and insert "37."

Page 17, line 19, delete "36." and insert "38."

(Reference is to ESB 349 as printed February 17, 2006.)

BURTON

Motion prevailed.

HOUSE MOTION (Amendment 349-2)

Mr. Speaker: I move that Engrossed Senate Bill 349 be amended to read as follows:

Page 3, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 2. IC 27-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

(a) (1) A copy of its articles of incorporation or association,

with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(b) (2) An application for admission, executed in the manner provided in this chapter, setting forth:

(1) (A) the name of such company;

(2) (B) the location of its principal office or place of business without this state;

(3) (C) the names of the states in which it has been admitted or qualified to do business;

(4) (D) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) (E) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) (F) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

(7) (G) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

(8) (H) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(3) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(4) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(5) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(6) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(7) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom, except as provided in section 4.2 of this chapter, all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized

officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the agent and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The agent shall make information and receipts available to plaintiff, defendant or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

~~(h)~~ (8) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 3. IC 27-1-17-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. (a) A foreign or alien insurance company that provides a surety bond that is required or permitted under the law of the United States shall execute a power of attorney in a form prescribed by the department irrevocably appointing the commissioner as the insurance company's agent for service of process in an action on the surety bond if the:**

- (1) surety bond was provided in Indiana; and
- (2) service of process under this section is in addition to another method of service of process authorized by law or court rule.

(b) Service of process under this section has the same effect as personal service on the insurance company.

(c) Upon receipt of process described in this section, the commissioner shall forward the process to the resident agent designated by the insurance company under section 4(7) of this chapter.

(d) The commissioner may adopt rules under IC 4-22-2 to establish reasonable fees for the acceptance of process described in this section. Fees collected under rules adopted under this subsection must be deposited in the department of insurance fund established by IC 27-1-3-28."

Renumber all SECTIONS consecutively.

(Reference is to ESB 349 as printed February 17, 2006.)

BURTON

Motion prevailed.

HOUSE MOTION (Amendment 349-4)

Mr. Speaker: I move that Engrossed Senate Bill 349 be amended to read as follows:

Page 17, after line 21, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2006] **(a) The definitions in IC 27-1-29.1 apply throughout this SECTION.**

(b) This SECTION applies to a member that:

- (1) has been a member of the fund for at least ten (10) years; and**
- (2) provided a withdrawal notice in 2005 for the 2006 calendar year insured period.**

(c) A member described in subsection (b) may:

- (1) withdraw from the fund with proper notice; and**
- (2) elect to receive a rebate of the member's prior assessments from the reserve account established under IC 27-1-29.1-8 to establish a self-insured retainage account.**

(d) The commission shall pay a rebate described in subsection (c) to a member making an election under subsection (c) at any time the reserve account exceeds the five million dollar (\$5,000,000) balance required under IC 27-1-29.1-8(a).

(e) Notwithstanding IC 27-1-29.1-21, after a member described in this SECTION withdraws from the fund and receives a rebate under this SECTION:

- (1) the member is released from all liability to the fund related to claims based on acts or omissions that took place while the member was a member of the fund; and**
- (2) the fund is released from all liability related to claims based on acts or omissions of the member that took place while the member was a member of the fund.**

(f) This SECTION expires December 31, 2008."

(Reference is to ESB 349 as printed February 17, 2006.)

AYRES

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 333

Representative T. Harris called down Engrossed Senate Bill 333 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 333-4)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 52, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 76. IC 25-35.6-1-7, AS AMENDED BY HEA 1040-2006, SECTION 480, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005 (RETROACTIVE)]: **Sec. 7.**

(a) The professional standards board may issue the following:

- (1) An initial license as a speech-language pathologist only to an individual who is licensed as a speech-language pathologist under this article.**
- (2) A renewal license as a speech-language pathologist to an individual who was licensed by the professional standards board before July 1, 2005, and who is not licensed as a speech-language pathologist under this article.**

(b) The professional standards board shall issue a license as a speech-language pathologist to an individual who:

- (1) is licensed as a speech-language pathologist under this article; and**
- (2) requests licensure.**

~~(b)~~ **(c) A speech-language pathologist licensed by the professional standards board shall register with the Indiana professional licensing agency all speech-language pathology support personnel that the speech-language pathologist supervises.**

~~(c)~~ **(d) The professional standards board may not impose different or additional supervision requirements upon speech-language pathology support personnel than the supervision requirements that are imposed under this article.**

~~(d)~~ **(e) The professional standards board may not impose continuing education requirements upon an individual who receives a license under this section that are different from or in addition to the continuing education requirements imposed under this article.**

~~(e)~~ **(f) An individual who:**

- (1) if:**
 - (A) the individual is a speech-language pathologist, receives a license under this section or received a license as a speech-language pathologist issued by the professional standards board before July 1, 2005; or**
 - (B) the individual is an audiologist, works in an educational setting;**
- (2) has been the holder of a certificate of clinical competence in speech-language pathology or audiology or its equivalent issued by a nationally recognized association for speech-language pathology and audiology for at least three (3) consecutive years;**

and

(3) has professional experience as a licensed speech-language pathologist or audiologist in a school setting that is equivalent to the experience required for a teacher seeking national certification by the National Board of Professional Teaching Standards;

is considered to have the equivalent of and is entitled to the same benefits that accrue to a holder of a national certification issued by the National Board for Professional Teaching Standards."

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

KOCH

Motion prevailed.

HOUSE MOTION (Amendment 333-5)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 38, line 5, beginning with "is" begin a new line blocked left. Page 52, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 78. P.L.205-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 2. (a) Notwithstanding IC 25-33-1-3(g) and IC 25-33-1-14, the state psychology board may not adopt new rules to establish, maintain, and update a list of restricted psychology tests and instruments (as defined in IC 25-33-1-14(b)) until after December 31, ~~2005~~ 2006.

(b) This SECTION does not effect any rules adopted by the state psychology board before the passage of this act.

(c) This SECTION expires June 30, ~~2006~~ 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

FRIZZELL

The Speaker ordered a division of the House and appointed Representatives Friend and Stilwell to count the yeas and nays. Representative Micon was excused from voting, pursuant to House Rule 46. Yeas 54, nays 40. Motion prevailed.

HOUSE MOTION (Amendment 333-2)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 25, line 29, after "shoulders" insert "**torso**,".

(Reference is to ESB 333 as printed February 24, 2006.)

GOODIN

Motion prevailed.

HOUSE MOTION (Amendment 333-6)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 52, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 76. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) As used in this section, "compensation" ~~includes means~~ pecuniary ~~and nonpecuniary remuneration of any kind~~ relating to the sale or renewal of the policy or certificate. ~~including, but not limited to, the following:~~

~~(1) Bonuses;~~

~~(2) Gifts;~~

~~(3) Prizes;~~

~~(4) Awards;~~

~~(5) Finders fees;~~

(b) An insurer or other entity that provides a commission or other compensation to an insurance producer or other representative for the sale of a long term care insurance policy may not violate the following conditions:

(1) The amount of the first year commission or first year compensation for selling or servicing the policy may not exceed ~~two four~~ hundred percent ~~(200%)~~ **(400%)** of the amount of the commission or other compensation paid in the second year.

(2) The amount of commission or other compensation provided

in years after the second year must be equal to the amount provided in the second year.

(3) A commission or other compensation must be provided each year for at least five (5) years after the first year.

(c) If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its insurance producer may not accept, compensation in an amount greater than the renewal compensation payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

(d) This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents."

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

RIPLEY

Representative Pelath rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. Representative Ripley withdrew the motion.

HOUSE MOTION (Amendment 333-3)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 3, between lines 17 and 18, begin a new paragraph and insert: "SECTION 2. IC 4-23-28-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The commission consists of twenty (20) members appointed as follows:

(1) Two (2) members of the senate who may not be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives who may not be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) Four (4) members of the Hispanic/Latino community:

(A) who are not members of the general assembly; **and**

(B) not more than two (2) of whom are affiliated with the same political party;

to be appointed by the president pro tempore of the senate.

(4) Four (4) members of the Hispanic/Latino community:

(A) who are not members of the general assembly; **and**

(B) not more than two (2) of whom are affiliated with the same political party;

to be appointed by the speaker of the house of representatives.

(5) The secretary of family and social services or a designee of the secretary who is a Hispanic or Latino employee of the office of the secretary of family and social services.

(6) The commissioner of the state department of health or a designee of the commissioner who is a Hispanic or Latino employee of the state department of health.

(7) The state superintendent of public instruction or a designee of the superintendent who is a Hispanic or Latino employee of the department of education.

(8) The commissioner of the department of correction or a designee of the commissioner who is a Hispanic or Latino employee of the department of correction.

(9) The director of the civil rights commission or a designee of the director who is a Hispanic or Latino employee of the civil rights commission.

(10) ~~The director of the department of commerce~~ **lieutenant governor** or a designee of the ~~director~~ **lieutenant governor** who is a Hispanic or Latino employee of the ~~department of commerce~~ **lieutenant governor**.

(11) A Hispanic or Latino business person, appointed by the governor.

(12) The commissioner of workforce development or a designee of the commissioner who is a Hispanic or Latino employee of the department of workforce development, who shall serve as an ex officio member of the commission.

In making their appointments under this section, the president pro tempore of the senate and the speaker of the house of representatives shall attempt to have the greatest possible number of counties represented on the commission.

(b) If a legislative member of the commission ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.

(c) A member of the commission may be removed at any time by the appointing authority who appointed the member.

(d) If a vacancy on the commission occurs, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy."

Page 38, line 5, delete " is" and insert "is".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

AGUILERA

Motion prevailed.

HOUSE MOTION (Amendment 333-7)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 9, between lines 31 and 32, begin a new paragraph and insert: "SECTION 10. IC 20-28-12-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. A school psychologist is a practitioner for services included within a student's individualized education program and may refer, order, or prescribe:**

- (1) physical therapy;
- (2) occupational therapy;
- (3) services for speech, hearing, and language disorders; and
- (4) any other services within a school psychologist's scope of practice and training, in accordance with the applicable ethical standards of the profession and this chapter."

Page 38, line 5, beginning with "is" begin a new line blocked left. Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

THOMPSON

The Speaker ordered a division of the House and appointed Representatives Friend and Stilwell to count the yeas and nays. Yeas 59, nays 37. Motion prevailed.

HOUSE MOTION (Amendment 333-1)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 52, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 75. IC 34-30-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 5.5 Charities: Limited Liability for Small Charitable Organizations

Sec. 1. This chapter applies only to a claim or suit in tort brought against a small charitable organization.

Sec. 2. This chapter does not apply to the following:

- (1) An act or omission concerning the provision of health care services by a health care provider (as defined in IC 34-17-2-14).
- (2) An act or omission that constitutes gross negligence or willful or wanton misconduct.
- (3) An act or omission that occurs in connection with the negligent operation of a motor vehicle (as defined in IC 9-13-2-105(a)).

Sec. 3. As used in this chapter "small charitable organization" means an organization:

- (1) with total annual revenue of five hundred thousand dollars (\$500,000) or less;
- (2) that is tax exempt under Section 501(c) 3 of the Internal Revenue Code; and
- (3) that is at least one (1) of the following:

(A) A community mental retardation and other developmental disabilities center (as defined in IC 12-29-3-6).

(B) A rehabilitation center (as described in IC 12-12-3).

(C) A faith based organization.

(D) An organization that has one (1) or more of the following purposes:

- (i) The relief of poverty.
- (ii) The advancement of education or religion.
- (iii) The promotion of health.
- (iv) The support of a governmental purpose.
- (v) The support or improvement of a park, neighborhood, or local community.

Sec. 4. (a) The combined aggregate liability of a small charitable organization under this chapter does not exceed the liability limits described in IC 34-13-3-4.

(b) A small charitable organization is not liable for punitive damages."

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 24, 2006.)

WHETSTONE

Representative Pelath rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. Representative Whetstone withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 324

Representative Behning called down Engrossed Senate Bill 324 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 324-10)

Mr. Speaker: I move that Engrossed Senate Bill 324 be amended to read as follows:

Page 7, line 3, delete "IC 20-20-7" and insert "**IC 20-20-5**".

(Reference is to ESB 324 as printed February 24, 2006.)

BEHNING

Motion prevailed.

HOUSE MOTION (Amendment 324-3)

Mr. Speaker: I move that Engrossed Senate Bill 324 be amended to read as follows:

Page 17, between lines 2 and 3, begin a new paragraph and insert: "SECTION 24. [EFFECTIVE JULY 1, 2006] **(a) The county election board of Lake County shall place the following public question on the ballot in the city of East Chicago at the May 2007 primary election:**

"Should the school board of the school city of East Chicago be elected rather than appointed?"

(b) The county election board shall print the following immediately below the public question stated in subsection (a):

"The vote on this public question is advisory only. The result of the vote on this public question is not binding on the General Assembly or on any public official."

(c) The public question described in this SECTION must be placed on the ballot in accordance with IC 3-11-2-15.

(d) The county election board shall tabulate the votes cast on the public question described in this SECTION and certify the results under IC 3-12-4-9.

(e) Except as provided in this SECTION, IC 3 applies to the public question required by this SECTION.

(f) The secretary of state shall certify the results of the vote on the public question required by this SECTION to each of the following:

- (1) The speaker of the house of representatives.
- (2) The president pro tempore of the senate.
- (3) The governor.

(g) This SECTION expires January 1, 2008."

Renumber all SECTIONS consecutively.

(Reference is to ESB 324 as printed February 24, 2006.)

AGUILERA

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 324-6)

Mr. Speaker: I move that Engrossed Senate Bill 324 be amended to read as follows:

Page 10, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 10. IC 20-28-8-6, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A contract entered into by a governing body and its superintendent is subject to the following conditions:

- (1) The basic contract must be in the form of the regular teacher's contract.
- (2) The **initial** contract must be for a term of at least thirty-six (36) months. **However, a subsequent contract may be for a term of any duration.**
- (3) The contract may be altered or rescinded for a new one at any time by mutual consent of the governing body and the superintendent. The consent of both parties must be in writing and must be expressed in a manner consistent with this section and sections 7 through 8 of this chapter.
- (4) The rights of a superintendent as a teacher under any other law are not affected by the contract."

Renumber all SECTIONS consecutively.

(Reference is to ESB 324 as printed February 24, 2006.)

THOMPSON

Upon request of Representatives V. Smith and Porter, the Speaker ordered the roll of the House to be called. Representative Goodin was excused from voting, pursuant to House Rule 46. Roll Call 298: yeas 70, nays 25. Motion prevailed.

HOUSE MOTION
(Amendment 324-4)

Mr. Speaker: I move that Engrossed Senate Bill 324 be amended to read as follows:

Page 9, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 10. IC 20-28-7-9, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. Before a teacher is refused continuation of the contract under section 8 of this chapter, the teacher has the following rights, which shall be strictly construed:

- (1) The principal of the school at which the teacher teaches must provide the teacher with an annual written evaluation of the teacher's performance before January 1 of each year. Upon the request of a nonpermanent teacher, delivered in writing to the principal not later than thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.
- (2) On or before ~~May 1~~, **May 20**, the school corporation shall notify the teacher that the governing body will consider nonrenewal of the contract for the next school term. The notification must be:

- (A) written; and
- (B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

- (3) Upon the request of the teacher, and not later than fifteen (15) days after the teacher's receipt of the notice of the consideration of contract nonrenewal, the governing body or the superintendent of the school corporation shall provide the teacher with a written statement, which:

- (A) may be developed in an executive session; and
- (B) is not a public document;

giving the reasons for the nonrenewal of the teacher's contract."

Renumber all SECTIONS consecutively.

(Reference is to ESB 324 as printed February 24, 2006.)

THOMPSON

Motion prevailed.

HOUSE MOTION
(Amendment 324-9)

Mr. Speaker: I move that Engrossed Senate Bill 324 be amended to read as follows:

Page 3, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 2. IC 20-26-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17. Education Issues Study Committee

Sec. 1. The education issues study committee is established.

Sec. 2. (a) The education issues study committee consists of twelve (12) members of the general assembly appointed as follows:

- (1) Six (6) senators appointed by the president pro tempore of the senate in consultation with the minority leader of the senate, not more than three (3) of whom may be members of the same political party.**

- (2) Six (6) representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives, not more than three (3) of whom may be members of the same political party.**

(b) The term of a member of the committee expires on December 31 of the even-numbered year following the member's appointment.

(c) A vacancy on the committee shall be filled by appointment of a replacement member for the unexpired term. The president pro tempore of the senate shall appoint a replacement for a senator and the speaker of the house of representatives shall appoint a replacement for a representative.

Sec. 3. The president pro tempore of the senate shall appoint a member of the committee to serve as chairperson of the committee during the first regular session of a general assembly and as vice chairperson during the second regular session. The speaker of the house of representatives shall appoint a member of the committee to serve as vice chairperson during the first regular session of a general assembly and as chairperson during the second regular session.

Sec. 4. Each member of the education issues study committee is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

Sec. 5. The education issues study committee shall study and may make recommendations concerning all matters relating to state regulation of public elementary and secondary schools.

Sec. 6. The education issues study committee shall do the following:

- (1) Operate under the direction of the legislative council and under the policies governing study committees adopted by the legislative council.**

- (2) Issue reports when directed to do so by the legislative council.**

Sec. 7. Staff and administrative support for the education issues study committee shall be provided by the legislative services agency.

SECTION 3. An emergency is declared for this act."

Delete pages 4 through 17.

(Reference is to ESB 324 as printed February 24, 2006.)

PORTER

Upon request of Representatives Cheney and Porter, the Speaker ordered the roll of the House to be called. Roll Call 299: yeas 49, nays 49. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 321

Representative Torr called down Engrossed Senate Bill 321 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 321-1)

Mr. Speaker: I move that Engrossed Senate Bill 321 be amended to read as follows:

Page 23, line 19, delete "AS ADDED BY P.L.98-2005,".

Page 23, line 20, delete "SECTION 9," and insert "AS

AMENDED BY HEA 1040-2006, SECTION 344,".

Page 23, line 22, reset in roman "who".

Page 23, line 23, reset in roman "violates this chapter".

Page 23, line 42, delete "IC 22-4-7-1 or IC 22-4-7-2)." and insert "~~IC 22-4-7-1~~".

Page 37, line 36, strike "It shall be the duty".

Page 37, line 37, strike "of".

Page 37, line 37, before "board" delete "the" and insert "The".

Page 37, line 38, reset in roman "shall have the power and".

Page 37, line 39, reset in roman "authority to adopt, amend, or rescind such rules and regulations".

Page 37, line 42, reset in roman "for the proper administration of this article. All".

Page 38, reset in roman lines 1 through 4.

Page 38, line 5, reset in roman "of this article shall be with or without retroactive effect".

Page 38, line 5, delete "to carry out".

Page 38, line 6, delete "its duties under IC 22-4-18-2".

Page 39, line 41, after "subsection (b)," insert "**the fact that a claim has been made under IC 22-4-15-1(c)(8) and**".

Page 40, line 1, strike "is" and insert "**are**".

(Reference is to ESB 321 as printed February 24, 2006.)

TORR

Motion prevailed.

HOUSE MOTION (Amendment 321-2)

Mr. Speaker: I move that Engrossed Senate Bill 321 be amended to read as follows:

Page 23, line 19, delete "AS ADDED BY P.L.98-2005,".

Page 23, line 20, delete "SECTION 9," and insert "AS AMENDED BY HEA 1040-2006, SECTION 344,".

Page 23, line 22, reset in roman "who".

Page 23, line 23, reset in roman "violates this chapter".

Page 23, line 42, delete "IC 22-4-7-1 or IC 22-4-7-2)." and insert "~~IC 22-4-7-1~~".

Page 44, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 50. IC 22-4-25-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. (a) As used in this section, "fund" refers to the special employment and training services fund created under section 1 of this chapter.**

(b) The commissioner may allocate an amount not to exceed two million dollars (\$2,000,000) annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated by:

(1) a reduction of funding for;

(2) a centralization or decentralization of; or

(3) the implementation of a more efficient technology or service delivery method in connection with;

the programs and services provided under this article."

Re-number all SECTIONS consecutively.

(Reference is to ESB 321 as printed February 24, 2006.)

TORR

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 305

Representative Hinkle called down Engrossed Senate Bill 305 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 305-1)

Mr. Speaker: I move that Engrossed Bill 305 be amended to read as follows:

Page 1, line 3, delete "bus", for" and insert "**bus**".

Page 1, line 4, delete "purposes of IC 9-21-12,".

Page 1, between lines 4 and 5, begin a new paragraph and insert: "SECTION 2. IC 9-21-5-2, AS AMENDED BY P.L.151-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.** Except when a special hazard exists that requires lower speed for compliance with section 1 of this chapter, the slower speed limit specified in this section or established

as authorized by section 3 of this chapter is the maximum lawful speed. A person may not drive a vehicle on a highway at a speed in excess of the following maximum limits:

(1) Thirty (30) miles per hour in an urban district.

(2) Fifty-five (55) miles per hour, except as provided in subdivisions (1), (3), (4), (5), (6), and (7).

(3) Seventy (70) miles per hour on a highway on the national system of interstate and defense highways located outside of an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000), except as provided in subdivision (4).

(4) Sixty-five (65) miles per hour for a:

(i) vehicle (other than a bus) having a declared gross weight greater than twenty-six thousand (26,000) pounds on a highway; or

(ii) special purpose bus;

on the national system of interstate and defense highways located outside an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000).

(5) Sixty-five (65) miles per hour on:

(A) U.S. 20 from the intersection of U.S. 20 and County Road 17 in Elkhart County to the intersection of U.S. 20 and U.S. 31 in St. Joseph County;

(B) U.S. 31 from the intersection of U.S. 31 and U.S. 20 in St. Joseph County to the boundary line between Indiana and Michigan; and

(C) a highway classified by the Indiana department of transportation as an INDOT Freeway.

(6) On a highway that is the responsibility of the Indiana ~~transportation~~ finance authority established by ~~IC 8-9-5-8-2-IC 4-4-11~~:

(A) seventy (70) miles per hour for:

(i) a motor vehicle having a declared gross weight of not more than twenty-six thousand (26,000) pounds; or

(ii) a bus; or

(B) sixty-five (65) miles per hour for a:

(i) motor vehicle having a declared gross weight greater than twenty-six thousand (26,000) pounds; or

(ii) special purpose bus.

(7) Sixty (60) miles per hour on a highway that:

(A) is not designated as a part of the national system of interstate and defense highways;

(B) has four (4) or more lanes;

(C) is divided into two (2) or more roadways by:

(i) an intervening space that is unimproved and not intended for vehicular travel;

(ii) a physical barrier; or

(iii) a dividing section constructed to impede vehicular traffic; and

(D) is located outside an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000).

(8) Fifteen (15) miles per hour in an alley."

Re-number all SECTIONS consecutively.

(Reference is to ESB 305 as printed February 22, 2006.)

HINKLE

Motion prevailed.

HOUSE MOTION (Amendment 305-3)

Mr. Speaker: I move that Engrossed Senate Bill 305 be amended to read as follows:

Page 3, after line 41, begin a new paragraph and insert:

"SECTION 7. IC 20-33-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 11. Interrogation of a Student

Sec. 1. The definitions in IC 20-33-8 apply to this chapter.

Sec. 2. A school shall comply with section 3 or 4 of this chapter.

Sec. 3. If a student who is at least eighteen (18) years of age is interrogated by a law enforcement officer, including a school corporation police officer appointed under IC 20-26-16:

(1) on school property; and

(2) regarding an investigation in which the student may be a suspect;
the school principal must notify the student's parent or guardian of the interrogation not later than twelve (12) hours after the interrogation occurs.

Sec. 4. If a school has a policy that requires a student's parent or guardian to be notified by the school if the student is interrogated on school property by a law enforcement officer, the school policy must apply to all students, regardless of the age of the student."

Renumber all SECTIONS consecutively.

(Reference is to ESB 305 as printed February 22, 2006.)

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION (Amendment 305-2)

Mr. Speaker: I move that Engrossed Senate Bill 305 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 2. IC 9-21-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Except as provided in subsection (e), whenever a local authority in the authority's jurisdiction determines ~~on the basis of an engineering and traffic investigation~~ that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit on the highway. The maximum limit declared under this section may do any of the following:

- (1) Decrease the limit within urban districts, but not to less than twenty (20) miles per hour.
- (2) Increase the limit within an urban district, but not to more than fifty-five (55) miles per hour during daytime and fifty (50) miles per hour during nighttime.
- (3) Decrease the limit outside an urban district, but not to less than thirty (30) miles per hour.
- (4) Decrease the limit in an alley, but to not less than five (5) miles per hour.
- (5) Increase the limit in an alley, but to not more than thirty (30) miles per hour.

The local authority must perform an engineering and traffic investigation before a determination may be made to change a speed limit under subdivision (2), (3), (4), or (5) or before the speed limit within an urban district may be decreased to less than twenty-five (25) miles per hour under subdivision (1).

(b) A local authority in the authority's jurisdiction shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district. **However, an engineering and traffic study is not required to be performed for the local streets in an urban district under this subsection if the local authority determines that the proper maximum speed in the urban district is not less than twenty-five (25) miles per hour.**

(c) An altered limit established under this section is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice of the altered limit are erected on the street or highway.

(d) Except as provided in this subsection, a local authority may not alter a speed limit on a highway or extension of a highway in the state highway system. A city or town may establish speed limits on state highways upon which a school is located. However, a speed limit established under this subsection is valid only if the following conditions exist:

- (1) The limit is not less than twenty (20) miles per hour.
- (2) The limit is imposed only in the immediate vicinity of the school.
- (3) Children are present.
- (4) The speed zone is properly signed.
- (5) The Indiana department of transportation has been notified of the limit imposed by certified mail.

(e) A local authority may decrease a limit on a street to not less than fifteen (15) miles per hour if the following conditions exist:

(1) The street is located within a park or playground established under IC 36-10.

(2) The:

- (A) board established under IC 36-10-3;
- (B) board established under IC 36-10-4; or
- (C) park authority established under IC 36-10-5;

requests the local authority to decrease the limit.

(3) The speed zone is properly signed."

Renumber all SECTIONS consecutively.

(Reference is to ESB 305 as printed February 22, 2006.)

PIERCE

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 266

Representative T. Brown called down Engrossed Senate Bill 266 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 266-1)

Mr. Speaker: I move that Engrossed Senate Bill 266 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-7.7, AS AMENDED BY P.L.196-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.7. (a) As used in this section, "covered individual" means an individual who is covered under a health care plan.

(b) As used in this section, "health care plan" means:

- (1) a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
- (2) a contract entered into under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.

(c) As used in this section, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or
- (2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(d) As used in this section, "morbid obesity" means:

- (1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
- (2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

(e) Except as provided in subsection (f), the state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least ~~eighteen (18)~~ **six (6)** consecutive months.

(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

- (1) save the life of the covered individual; or
- (2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the covered individual's medical record the reason for the physician's determination."

Renumber all SECTIONS consecutively.

(Reference is to ESB 266 as printed February 24, 2006.)

T. BROWN

Motion prevailed.

HOUSE MOTION (Amendment 266-2)

Mr. Speaker: I move that Engrossed Senate Bill 266 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and human services.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-23-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 21. Not more than thirty (30) days after a change to the state Medicaid plan for the Medicaid program, the office of Medicaid policy and planning shall submit a report of the change to the commission and the legislative council in an electronic format under IC 5-14-6.**

SECTION 2. IC 12-15-15-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.7. (a) If approved by the office, a managed care organization may adopt a plan for the collection of a copayment for services that are provided to a Medicaid recipient in an emergency room.**

(b) Each managed care organization must adopt a plan that includes the following components:

- (1) The education of Medicaid recipients concerning how a recipient may access health care services and modifications to the recipient's health plan.**
- (2) Procedures to track visits to emergency rooms by Medicaid recipients.**
- (3) Alternative sites for Medicaid recipients to receive health care services.**
- (4) Methods to clearly identify a Medicaid recipient's current status to a provider who is not a member of the recipient's managed care organization.**
- (5) Procedures to pay for professional services provided to screen a Medicaid recipient who seeks services in an emergency room.**
- (6) Protocols for dispute resolution between the managed care organization and providers."**

Page 4, after line 11, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2006] **(a) The office of Medicaid policy and planning shall do the following:**

- (1) Study possible changes to the state Medicaid program or other new programs that would limit or restrict a future increase in the number of Medicaid recipients in health facilities licensed under IC 16-28.**
- (2) Prepare a comprehensive cost comparison of Medicaid and Medicaid waiver services and other expenditures in the following settings:**
 - (A) Home care.**
 - (B) Community care.**
 - (C) Health facilities.**

The cost comparison must include a comparison of similar services that are provided in the different settings.

(b) Before October 1, 2006, the office of Medicaid policy and planning shall report its findings under subsection (a) to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(c) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 266 as printed February 24, 2006.)

T. BROWN

Upon request of Representatives Espich and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 300: yeas 49, nays 48. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 259

Representative Espich called down Engrossed Senate Bill 259 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 259-4)

Mr. Speaker: I move that Engrossed Senate Bill 259 be amended to read as follows:

Page 2, line 2, delete ", or any other responsible".

Page 2, line 3, delete "contractor,".

(Reference is to ESB 259 as printed February 21, 2006.)

DAVIS

Motion prevailed.

HOUSE MOTION
(Amendment 259-5)

Mr. Speaker: I move that Engrossed Senate Bill 259 be amended to read as follows:

Page 1, line 12, after "18.5." insert "(a)".

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"(c) The board shall prepare a bid file containing the following information:

- (1) A copy of all documents that are included as part of the invitation for bids.**
- (2) A list of all persons to whom copies of the invitation for bids were given, including the following information:**
 - (A) The name and address of each person who received an invitation for bids.**
 - (B) The name of each bidder who responded and the dollar amount of the bid.**
 - (C) A summary of the bid received.**
- (3) The basis on which the bid was accepted.**
- (4) Documentation of the board's negotiating process with the bidder. The documentation must include the following:**
 - (A) A log of the dates and times of each meeting with the bidder.**
 - (B) A description of the nature of all communications with the bidder.**
 - (C) A copy of all written communications, including electronic communications, with the bidder.**
- (5) The entire contents of the contract file except for proprietary information included with the bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids."**

(Reference is to ESB 259 as printed February 21, 2006.)

DAVIS

Motion prevailed. The bill was ordered engrossed.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1279.

MURPHY

Representative Austin rose to a point of order, citing Rule 119.2, stating that "The House shall reject all House bills that have been amended in the Senate by substituting therein the contents of a different bill or a different subject matter without having first received the written consent of its author and coauthors."

Representative Murphy withdrew the motion to concur.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 9:05 p.m. with the Speaker in the Chair.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1279.

MURPHY

Representative Pierce rose to a point of order, citing Rule 119.2, stating that "The House shall reject all House bills that have been amended in the Senate by substituting therein the contents of a different bill or a different subject matter without having first received

the written consent of its author and coauthors."

The Speaker ruled the point was not well taken because the Senate amendments did not substitute a different bill or a different subject matter.

The question then was on the motion to concur. Roll Call 301: yeas 78, nays 18. Motion prevailed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bill 1093 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1010, 1011, 1022, 1024, 1028, 1056, 1080, and 1089 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has not concurred in House amendments to Engrossed Senate Bill 75 and the President Pro Tempore has appointed the following Senators a conference committee to meet and confer with a like committee of the House on said bill, and to report thereon:

Conferees: Long, Chair; and Craycraft
Advisors: Delph and Howard

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 35 and 41 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 35

The Speaker handed down Senate Concurrent Resolution 35, sponsored by Representative Mays:

A CONCURRENT RESOLUTION congratulating Molly Seward for being named Indiana's Teacher of the Year for 2005, thanking her for her service to Indiana's youth, and extending our congratulations to her for representing Indiana at the national competition in Washington, DC for teacher of the year.

Whereas, Molly is a second grade teacher of 17 years;

Whereas, She teaches at Snacks Crossing Elementary in MSD Pike Twp Schools in Indianapolis and is currently a "teacher-in-residence" at the Indiana Department of Education;

Whereas, She received her Bachelor of Science in Elementary Education from Indiana University in December of 1986 and a Masters of Science in Curriculum and Instruction from the University of Indianapolis in May of 1998;

Whereas, Dr. Suellen Reed, Superintendent of Public Instruction, has said that her "classroom and community work demonstrates a strong commitment to making Indiana's public schools stronger and its teachers better" and that "she is an advocate for the state of education in Indiana, an inspiration to our students, and an outstanding representative for all Indiana teachers";

Whereas, She has been honored as the Pike Township Teacher of the Year in 2004 and as the Outstanding Indiana Educator in 1997 by the University of Indianapolis; and

Whereas, She received the Armstrong Teacher Educator award in 2004 and the Professional Teaching Achievement Award from Governor O'Bannon in 2001: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. The General Assembly congratulates Molly Seward for being named Indiana's Teacher of the Year for 2005, thanks her for her service to Indiana's youth, and extends its congratulations to her for representing Indiana at the national competition in Washington, DC for teacher of the year.

SECTION 2. The Secretary of the Senate shall transmit a copy of this resolution to Molly Seward, Indiana University, the University of Indianapolis, and Snacks Crossing Elementary School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 41

The Speaker handed down Senate Concurrent Resolution 41, sponsored by Representatives Ruppel, Pond, Bischoff, and Goodin:

A CONCURRENT RESOLUTION honoring the Indiana State Fair Commission and Board on the upcoming 150th State Fair.

Whereas, In 1851, the Indiana General Assembly passed an act "to encourage agriculture," which provided for the formation of a State Board of Agriculture. The primary goal of the Board was to create the first Indiana State Fair;

Whereas, Then in 1852, Indiana became the sixth state to begin holding an annual state agricultural fair. The original purpose of the State Fair was to allow Indiana's farmers to share ideas, view the most modern farming techniques, and display their products;

Whereas, The first State Fair was held at Camp Sullivan, which is now known as Military Park in downtown Indianapolis. While Indianapolis has been the primary location of the State Fair throughout its history, a few other Indiana cities hosted the event in the 1800s: Lafayette (1853), Madison (1854), New Albany (1859), Fort Wayne (1865) and Terre Haute (1867);

Whereas, In 1892, the Fair moved to its current location at East 38th Street and Fall Creek Parkway;

Whereas, The Indiana State Fair is one of the longest running fairs in the nation, having been held every year since 1852 with the exceptions of 1861, due to the Civil War, and 1942-1945, due to World War II;

Whereas, Agricultural activities at the Fair over the years have consisted of various livestock shows and crop exhibits. In addition, the Fair has included numerous homemaking projects such as baking, sewing, and arts and crafts;

Whereas, Today, with over 64,000 farms in Indiana, agriculture is still a focal point of the Fair. Attractions such as Pioneer Village, Farmers Day at the Fair, Pioneer Our Land Pavilion, the Ag/Hort Building, Little Hands on the Farm, and countless other exhibits highlight the development and impact of agriculture on the lives of Hoosiers statewide;

Whereas, In addition to agriculture, the Indiana State Fair has hosted many nationally-known performers, including: Captain Kangaroo, Johnny Cash, Reba McKentire, Def Leppard, Dolly Parton, Garth Brooks, Bruce Springsteen, Alabama, Sonny & Cher, and The Beatles;

Whereas, The Indiana State Fair is also known for its scrumptious and varied menu of food, including traditional favorites like corn on the cob, Hoosier ribeye sandwiches, lemon shake-ups, milk shakes, and corn dogs, as well as many other delicious treats;

Whereas, After \$8 million in enhancements in 2004, the 4-H Education Complex at the State Fairgrounds is the nation's premier showcase of 4-H exhibits and events;

Whereas, With an annual average attendance of more than 800,000 visitors, the State Fair is the most-attended event in Indiana and generates nearly \$20 million annually for the economy; and

Whereas, Although primarily an agricultural exposition, the Indiana State Fair is a family event that young and old look forward to every year: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the 150th Indiana State Fair and congratulates the Indiana State Fair Commission and Board on having one of the longest running State Fairs in the nation.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Cindy Hoye, Executive Director of the Fair Commission; Dr. Gene Sease, State Fair Commission Chairman; and the members of the Indiana State Fair Board.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Representative Wolkins, who had been excused, was present.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 234

Representative Wolkins called down Engrossed Senate Bill 234 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 234-1)

Mr. Speaker: I move that Engrossed Senate Bill 234 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 3. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 28. Indiana Harbor Dredging Review Commission

Sec. 1. As used in this chapter, "commission" refers to the Indiana harbor dredging project review commission established under section 3 of this chapter.

Sec. 2. As used in this chapter, "project" refers to the Indiana harbor and ship canal dredging project.

Sec. 3. The Indiana harbor dredging project review commission is established.

Sec. 4. The commission consists of five (5) voting members appointed as follows:

(1) One (1) member of the senate appointed by the president pro tempore of the senate.

(2) One (1) member of the house of representatives appointed by the speaker of the house of representatives.

(3) One (1) individual:

(A) who is not a member of the general assembly; and

(B) who works as a university professor or university researcher in environmental studies;

appointed by the governor.

(4) One (1) individual:

(A) who is not a member of the general assembly; and

(B) who works in industry in northwest Indiana;

appointed by the mayor of East Chicago.

(5) One (1) individual:

(A) who is not a member of the general assembly; and

(B) who has a background as a community activist;

appointed by the city council of East Chicago.

Sec. 5. (a) Except as otherwise provided in this section, the term of a commission member appointed under section 4 of this chapter:

(1) begins on July 1 of the year of appointment; and

(2) continues until June 30 of the year two (2) years after the year of appointment.

(b) If a commission member resigns, dies, or is otherwise unable to complete the commission member's term, the individual or entity who appointed the commission member under section 4 of this chapter shall appoint a replacement to finish the commission member's term.

(c) The initial terms of the members of the general assembly appointed under section 4(1) and 4(2) of this chapter begin on July 1, 2006, and end on June 30, 2007.

Sec. 6. The chairman of the legislative council shall select one (1) member of the commission to serve as chairperson of the commission.

Sec. 7. The commission shall:

(1) review the report submitted to the commission under IC 8-10-9-9;

(2) conduct any additional study of issues involved with the project that the chairperson of the commission thinks advisable; and

(3) study other topics as assigned by the legislative council.

Sec. 8. By November 1 of each year, the commission shall submit a report of the commission's evaluation of the status of the project to:

(1) the legislative council;

(2) the commissioner of the department of environmental management; and

(3) the governor.

The report must be in an electronic format under IC 5-14-6.

Sec. 9. The commission shall operate under the rules of the legislative council."

Page 6, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 4. IC 8-10-9-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9.** By August 1 of each year, the board of directors of the East Chicago waterway management district established under section 3 of this chapter shall prepare an annual report on the progress of the Indiana harbor and ship canal dredging project. The board shall deliver the annual report to the Indiana harbor dredging project review commission established under IC 2-5-28-3 as soon as practicable after August 1 of each year. The report must be in electronic format under IC 5-14-6."

Renumber all SECTIONS consecutively.

(Reference is to ESB 234 as printed February 22, 2006.)

AGUILERA

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 202

Representative T. Brown called down Engrossed Senate Bill 202 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 202-1)

Mr. Speaker: I move that Engrossed Senate Bill 202 be amended to read as follows:

Page 16, delete lines 20 through 33.

Page 32, line 39, after "IC 25-26-13-12.5;" insert "IC 25-26-14-15.5;"

Renumber all SECTIONS consecutively.

(Reference is to ESB 202 as printed February 24, 2006.)

T. BROWN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 139

Representative Bell called down Engrossed Senate Bill 139 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 139-2)

Mr. Speaker: I move that Engrossed Senate Bill 139 be amended to read as follows:

Page 18, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 33. IC 31-17-2-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 25. (a) This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child.**

(b) Except as provided in subsection (c), if a person other than a parent files a petition:

- (1) seeking to determine custody of the child; or**
- (2) to modify custody of the child;**

the court shall set an initial hearing not later than four (4) business days after the petition is filed to determine whether emergency placement of the child with a person other than the child's noncustodial parent pending a final determination of custody is in the best interest of the child.

(c) A court is not required to set an initial hearing in accordance with this section if:

- (1) it appears from the pleadings that placement with a person other than the noncustodial parent is not in the best interest of the child;**
- (2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or**
- (3) manifest injustice would result."**

Page 22, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 37. IC 31-34-5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. If the juvenile court releases a child to the child's parent, guardian, or custodian under section 3 of this chapter, the court may impose conditions on the child or the child's parent, guardian, or custodian to ensure:**

- (1) the child's appearance at subsequent proceedings;**
- (2) the safety of the child's physical or mental health; or**
- (3) that both subdivisions (1) and (2) are satisfied."**

Page 26, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 47. IC 31-37-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:**

- (1) the child is unlikely to appear for subsequent proceedings;**
- (2) detention is essential to protect the child or the community;**
- (3) the parent, guardian, or custodian:**
 - (A) cannot be located; or**
 - (B) is unable or unwilling to take custody of the child;**
- (4) return of the child to the child's home is or would be:**
 - (A) contrary to the best interests and welfare of the child; and**
 - (B) harmful to the safety or health of the child; or**
- (5) the child has a reasonable basis for requesting that the child not be released.**

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

- (1) The factual basis for the finding specified in subsection (a)(4).**
- (2) A description of the family services available and efforts made to provide family services before removal of the child.**
- (3) The reasons why efforts made to provide family services did not prevent removal of the child.**
- (4) Whether efforts made to prevent removal of the child were reasonable.**

(d) Whenever the court releases a child under this section, the court

may impose conditions upon the child, including:

- (1) home detention;**
- (2) electronic monitoring;**
- (3) a curfew restriction;**
- (4) a protective order;**
- (5) a no contact order;**
- (6) an order to comply with Indiana law; or**
- (7) an order placing any other reasonable conditions on the child's actions or behavior.**

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

- (1) the child's appearance at subsequent proceedings;**
- (2) the safety of the child's physical or mental health;**
- (3) the public's physical safety; or**
- (4) that any combination of subdivisions (1) through (3) are satisfied."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 139 as printed February 24, 2006.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 117

Representative T. Brown called down Engrossed Senate Bill 117 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 117-6)

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"Any payments set forth above or any fees may not be required as a condition of employment."

(Reference is to ESB 117 as printed February 14, 2006.)

NOE

Representative Bauer rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 117 a bill pending before the House. The Speaker ruled the point was not well taken.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Noe's amendment (117-6) is not a bill pending before this House under Rule 118.

PELATH
FRY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 302: yeas 49, nays 47. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

After further discussion, Representative Whetstone moved that the previous question be called. Upon request of Representatives Bauer and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 303: yeas 49, nays 46. The previous question was called.

The question was on the motion of Representative Noe. Upon request of Representatives Noe and Torr, the Speaker ordered the roll of the House to be called. Roll Call 304: yeas 31, nays 65. Motion failed.

HOUSE MOTION

(Amendment 117-4)

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

Page 4, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 5. IC 24-3-6-9, AS ADDED BY P.L.160-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue or renew a license to the following applicants:

- (1) An importer.
- (2) A manufacturer.

The commission shall prescribe the form of an application.

(b) An importer or manufacturer that conducts business in Indiana must apply under this section for a license for the importer's or manufacturer's principal place of business. An importer or manufacturer that is issued a license shall display the license at the importer's or manufacturer's principal place of business.

(c) The commission shall prescribe the form and duration of a license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) An applicant must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the license is being issued.**
- (2) A fee of one thousand five hundred dollars (\$1,500).**

(e) Fees collected under this section must be deposited in the enforcement and administration fund under IC 7.1-4-10.

~~(f)~~ **(f)** A license issued under this section is nontransferable.

~~(g)~~ **(g)** The commission shall not issue or renew a license under this section if:

- (1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;
- (2) the commission revoked the applicant's license within two (2) years before the application;
- (3) the applicant commits an offense under IC 6-7-1-21;
- (4) the applicant does not comply with IC 24-3-3-12; or
- (5) the applicant violates IC 24-3-4.

~~(h)~~ **(h)** The commission may revoke or suspend a license issued under this section if the applicant:

- (1) is not eligible to receive or renew a license under subsection (e); or
- (2) violates this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 117 as printed February 14, 2006.)

STUTZMAN

Motion prevailed.

HOUSE MOTION (Amendment 117-1)

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

Page 3, line 37, delete "employer." and insert **"employer, but may not offer less in employee health benefits, compensation, employment benefits, or terms and conditions of employment to a user of tobacco products than to a nonuser of tobacco products."**

(Reference is to ESB 117 as printed February 14, 2006.)

CHENEY

Motion failed.

HOUSE MOTION (Amendment 117-5)

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a

joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

- (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
- (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
- (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

- (A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and
- (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
- (B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a) or IC 6-3.1-25-15(b).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in

service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it

was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums not included in the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

- (1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or
- (2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) limited liability company; or
- (4) limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has state tax liability; and
- (2) employs at least ten (10) full-time employees who are located in Indiana.

Sec. 9. (a) An eligible taxpayer that, after December 31, 2006, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following

requirements are met:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

- (b) The credit allowed under this chapter equals the lesser of:
 - (1) two thousand five hundred dollars (\$2,500); or
 - (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1) the first taxable year in which the taxpayer offers the health benefit plan; and
- (2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

(b) For each taxable year following the taxable year described in subsection (a)(2), a percentage of an employee's eligible benefits are included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) as follows:

- (1) For an employee whose annual income derived from the taxpayer is forty thousand dollars (\$40,000) or less, zero percent (0%).
- (2) For an employee whose annual income derived from the taxpayer is greater than forty thousand dollars (\$40,000) and less than eighty thousand dollars (\$80,000), fifty percent (50%).
- (3) For an employee whose annual income derived from the taxpayer is eighty thousand dollars (\$80,000) or greater, one hundred percent (100%).

(c) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 4, between lines 10 and 11, begin a new paragraph and insert: "SECTION 8. [EFFECTIVE JULY 1, 2006] IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2006."

SECTION 9. [EFFECTIVE JULY 1, 2006] IC 6-3.1-25, as added by this act, applies only to taxable years beginning after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 117 as printed February 14, 2006.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 86

Representative Messer called down Engrossed Senate Bill 86 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 86-1)

Mr. Speaker: I move that Engrossed Bill 86 be amended to read as follows:

Page 2, line 22, reset in roman "the amount of".

(Reference is to ESB 86 as printed February 17, 2006.)

MESSER

Motion failed.

HOUSE MOTION

(Amendment 86-5)

Mr. Speaker: I move that Engrossed Senate Bill 86 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 2, after line 38, begin a new paragraph and insert:

"SECTION 4. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 86 as printed February 17, 2006.)

FRY

Upon request of Representatives Messer and Fry, the Speaker ordered the roll of the House to be called. Roll Call 305: yeas 32, nays 64. Motion failed.

HOUSE MOTION

(Amendment 86-6)

Mr. Speaker: I move that Engrossed Senate Bill 86 be amended to read as follows:

Page 2, line 8, after "International." insert "**A rule adopted by the commission pertaining to medication must have the unanimous approval of the commission.**".

(Reference is to ESB 86 as printed February 17, 2006.)

FRY

Upon request of Representatives Fry and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 306: yeas 27, nays 68. Motion failed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that House Rule 117.2 be suspended on Wednesday, March 1, 2006, and that a motion to amend a bill on second reading be eligible for consideration if the motion is filed with the clerk and is time stamped at least one hour prior to the convening

of the session.

WHETSTONE

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, March 1, 2006 at 10:00 a.m.

RICHARDSON

Motion prevailed.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 5, Roll Call 284, on February 28, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

AGUILERA

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 5, Roll Call 284, on February 28, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

RESKE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 284 to 94 yeas, 0 nays.*]

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Austin, Ayres, Behning, Bell, Borders, Borrer, Bosma, C. Bottorff,

Bright, T. Brown, Buck, Budak, Buell, Cherry, Cochran, Crawford, Crouch, Davis, Dodge, Espich, Foley, Friend, Frizzell, Grubb, Gutwein, E. Harris, T. Harris, Heim, Hinkle, Hoffman, Kersey, Klinker, Koch, Kuzman, L. Lawson, Lehe, Leonard, J. Lutz, Mays, McClain, Messer, Micon, Murphy, Neese, Oxley, Pflum, Pond, Reske, Richardson, Ripley, Robertson, Ruppel, Saunders, J. Smith, V. Smith, Stilwell, Stutzman, Thomas, Thompson, Tincher, Torr, Turner, Tyler, Ulmer, Walorski, Whetstone, Wolkins, Woodruff, and Yount be added as coauthors of House Bill 1013.

BURTON

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative J. Smith be added as cosponsor of Engrossed Senate Bill 5.

ULMER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 56.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Mahern be added as cosponsor of Engrossed Senate Bill 349.

BURTON

Motion prevailed.

On the motion of Representative Ulmer, the House adjourned at 11:50 p.m., this twenty-eighth day of February, 2006, until Wednesday, March 1, 2006, at 10:00 a.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives